

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, WELFARE AND
APPRENTICESHIP SKILL IMPROVEMENT
& SAFETY FUNDS OF THE
INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 15, 15A, 15C & 15D,
AFL-CIO, *by their Trustees James T. Callahan,
Thomas A. Callahan, Michael Salgo, and
William Tyson*, CENTRAL PENSION FUND
OF THE INTERNATIONAL UNION OF
OPERATING ENGINEERS, *by its Chief
Executive Officer Michael A. Crabtree*,
INTERNATIONAL UNION OF OPERATING
ENGINEERS NATIONAL TRAINING
FUND, *by its Chief Executive Officer Jeffrey
Vincent*, and INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 15, 15A,
15C & 15D, AFL-CIO, *by its President &
Business Manager Thomas A. Callahan*,

Plaintiffs,

- against -

GLASSMAR STEEL ERECTORS, INC.,

Defendant.

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PAMELA K. CHEN, United States District Judge:

On August 5, 2021, the Honorable Lois Bloom, Magistrate Judge, issued a Report and Recommendation (“R&R”) recommending that Plaintiffs’ pending Motion for Default Judgment (Dkt. 8) be granted and judgment entered against Defendant. (*See generally* R&R, Dkt. 15.) On August 6, 2021, Plaintiffs served a copy of the R&R via U.S. first class mail on Defendant. (Dkt. 16.) Pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties had fourteen dates from the date of service of the R&R to file written objections. No objections have been filed. The Court has reviewed the R&R and finds it to be

ORDER ADOPTING
REPORT AND RECOMMENDATION
20-CV-3743 (PKC) (LB)

thorough, well-reasoned, and not “clearly erroneous,” except for a few minor typographical or computational errors that are identified and corrected below. Fed. R. Civ. P. 72(b); *see Prioleau v. Caserta*, No. 10-CV-5670, 2012 WL 5389931, at *1 (E.D.N.Y. Oct. 29, 2012) (“To accept the report and recommendation of a magistrate judge on a dispositive matter as to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record.”). Accordingly, the Court adopts the R&R in its entirety, with the following amendments.

I. Amended ERISA Prejudgment Interest (*End of Sub-Periods through June 2, 2020*)

To calculate prejudgment interest from the end of each of the sub-periods (*i.e.*, Period 1, Period 2, Period 3, and Period 4) through June 2, 2020, the Court used the same interest rates and formula described in the R&R. (*See* R&R, Dkt. 15, at 9–10.) The Court generally agrees with Judge Bloom’s calculations, but makes a few minor corrections based on its review of the relevant audit record (Audit Report, Dkt. 12-10) and application of the formula. These minor corrections are indicated below in red.

		Period 1	Period 2	Period 3	Period 4	
	No. of days between the end of Period through 6/2/2020	1068	884	703	338	
	Principal per Period	Interest Due				Total Interest Due
Welfare	\$1,488.00	\$261.24	\$265.05	\$432.58	\$222.96	\$1,181.83
	\$1,824.00					
	\$3,743.25					
	\$4,012.80					
Pension	\$1,201.20	\$316.33	\$364.54	\$554.78	\$268.90	\$1,504.55
	\$1,672.40					
	\$3,200.50					
	\$3,226.40					

Annuity	\$2,304.00	\$404.49	\$405.86	\$658.27	\$323.04	\$1,791.66
	\$2,793.00					
	\$5,696.25					
	\$5,814.00					
Apprentice	\$144.00	\$25.28	\$33.13	\$53.74	\$25.34	\$137.49
	\$228.00					
	\$465.00					
	\$456.00					
MRA	\$240.00	\$42.13	\$41.41	\$64.48	\$30.40	\$178.42
	\$285.00					
	\$558.00					
	\$547.20					
Vacation	\$768.00	\$134.83	\$140.81	\$228.38	\$107.68	\$611.70
	\$969.00					
	\$1,976.25					
	\$1,938.00					
NTF	\$0.00	\$0.00	\$0.00	\$0.00	\$3.80	\$3.80
	\$0.00					
	\$0.00					
	\$22.80					
Total Principal	\$45,573.05					\$5,409.45

II. Updated ERISA Prejudgment Interest (*June 3, 2020 through Date the Court Enters Judgment*)

To calculate prejudgment interest from June 3, 2020 through the date the Court enters judgment, the Court also used the interest rates and formula described in the R&R. (*See R&R, Dkt. 15, at 9–10.*)

		Period 1	Period 2	Period 3	Period 4	
	No. of days between 6/3/20 to the date the court enters judgment (9/8/2021)	463	463	463	463	
	Principal per Period	Interest Due				Total Interest Due

Welfare	\$1,488.00	\$113.25	\$138.82	\$284.90	\$305.41	\$842.38
	\$1,824.00					
	\$3,743.25					
	\$4,012.80					
Pension	\$1,201.20	\$137.13	\$190.93	\$365.38	\$368.34	\$1,061.78
	\$1,672.40					
	\$3,200.50					
	\$3,226.40					
Annuity	\$2,304.00	\$175.36	\$212.57	\$433.54	\$442.50	\$1,263.97
	\$2,793.00					
	\$5,696.25					
	\$5,814.00					
Apprentice	\$144.00	\$10.96	\$17.35	\$35.39	\$34.70	\$98.40
	\$228.00					
	\$465.00					
	\$456.00					
MRA	\$240.00	\$18.27	\$21.69	\$42.47	\$41.65	\$124.08
	\$285.00					
	\$558.00					
	\$547.20					
Vacation	\$768.00	\$58.45	\$73.75	\$150.41	\$147.50	\$430.11
	\$969.00					
	\$1,976.25					
	\$1,938.00					
NTF	\$0.00	\$0.00	\$0.00	\$0.00	\$5.21	\$5.21
	\$0.00					
	\$0.00					
	\$22.80					
Total Principal	\$45,573.05					\$3,825.93

III. Updated Total Judgment Amount

As recommended in the R&R, the chart provided below includes updated calculations for additional prejudgment interest amounts through the date the Court enters judgment. (See R&R, Dkt. 15, at 18.)

Plaintiff Local 15 Trust Funds, CPF, and NTF	Plaintiff Local 15
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\$45,573.05 in unpaid ERISA contributions \$9,235.38 in total interest on unpaid ERISA contributions from the end dates of the sub-periods through the date the court enters judgment \$5,489.64 in liquidated damages \$3,217.50 in attorney's fees \$1,036.75 in audit fees \$515.00 in costs	\$3,756.81 in unpaid union dues and PAC contributions \$1,252.71 in additional prejudgment interest of \$0.93 per day between January 1, 2018 through the date the court enters judgment
TOTAL: \$65,067.32	TOTAL: \$5,009.52

The Court also makes the following amendments to the R&R. The Amended ERISA Prejudgment Interest chart set forth above shall replace the ERISA Prejudgment Interest chart in the R&R. (*See* R&R, Dkt. 15, at 10–11.) The Local 15 Trust Funds, CPF and NFT prejudgment interest on the principal sum of \$45,573.05 calculated at interest rates set forth in the Trust Agreements through June 2, 2020 shall be **\$5,409.45** (not \$5,409.38 or \$5,405.56). (*Id.* at 11.) The Non-ERISA Damages chart shall reflect a “PAC” total of **\$67.05** (not \$47.05). (*Id.* at 16; *see* Audit Report, Dkt. 12-10, at ECF¹ 1.)

CONCLUSION

The Court adopts the R&R with the amendments described herein. Plaintiffs’ [8] motion for default judgment is granted. A judgment shall be entered in Plaintiffs’ favor against Defendant Glassmar Steel Erectors, Inc. in the amount of **\$70,076.84**, which includes prejudgment interest

¹ Citations to “ECF” refer to the pagination generated by the Court’s CM/ECF docketing system and not the document’s internal pagination.

through the date the Court enters judgment. The Clerk of Court is respectfully directed to enter judgment and close the case.

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen

United States District Judge

Dated: September 3, 2021
Brooklyn, New York